

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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NICOLE ZE'TONE,	:	08 Civ. 0495 (DLC):
	:	
Plaintiff,	:	<b><u>NOTICE</u></b>
	:	
-against-	:	<b><u>ELECTRONICALLY FILED</u></b>
	:	
KRIZIA S.p.A. and FRANCESCO VITALE,	:	
	:	
Defendants.	:	

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**PLEASE TAKE NOTICE**, that attached are true and correct copies of the Notice of Initial Pretrial Conference in this matter, the Individual Practices in Civil Cases of Hon. Denise L. Cote, United States District Judge, the 3<sup>rd</sup> Amended Instructions for Filing an Electronic Case or Appeal of the United States District Court for the Southern District of New York, and Guidelines for Electronic Case Filing of the United States District Court for the Southern District of New York.

Dated: New York, New York  
April 16, 2008

PAVIA & HARCOURT LLP

By: /s/ Jonathan A. Selva  
Adam D. Mitzner (AM-8325)  
Jonathan A. Selva (JS-2006)

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Attorneys for Plaintiff  
NICOLE ZE'TONE

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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NICOLE ZE'TONE,	:	08 CIV. 495 (DLC)
	:	
Plaintiff,	:	NOTICE OF INITIAL
	:	<u>PRETRIAL CONFERENCE</u>
-v-	:	
KRIZIA, S.p.A. and FRANCESCO VITALE,	:	
	:	
Defendants.	:	
-----	X	

DENISE COTE, District Judge:

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>4-8-08</u>
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This case has been designated an electronic case and has been assigned to me for all purposes. By the date of the initial pretrial conference counsel for all parties are required to register as filing users in accordance with the Procedures for Electronic Case Filing.

Counsel for all parties are directed to appear for an initial pretrial conference with the Court, at the time and place listed below. Counsel are directed to confer with each other prior to the conference regarding settlement and each of the other subjects to be considered at Fed.R.Civ.P. 16 conference, and to prepare a detailed written proposed schedule for any motions and discovery. Prior to the date of the conference, all parties must send the Court one copy of all pleadings.

If this case has been settled or otherwise terminated, counsel are not required to appear, provided that a stipulation of discontinuance, voluntary dismissal, or other proof of termination is sent prior to the date of the conference via e-mail to the Orders and Judgment Clerk at the following e-mail address: orders\_and\_judgments@nysd.uscourts.gov.

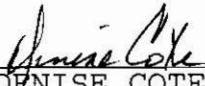
All conferences with the Court are scheduled for a specific time; there is no other matter scheduled for that time; and counsel are directed to appear promptly. **All pretrial conferences must be attended by the attorney who will serve as principal trial counsel.**

Requests for adjournment may be made only in a writing received not later than two business days before the conference. The written submission must (a) specify the reasons for the adjournment, (b) state whether the other parties have consented, and (c) indicate times and dates on succeeding Fridays when all counsel are available. Unless counsel are notified that the conference has been adjourned it will be held as scheduled.

YOU ARE DIRECTED (i) TO SO NOTIFY ALL ATTORNEYS IN THIS ACTION BY SERVING UPON EACH OF THEM A COPY OF THIS NOTICE AND THE COURT'S INDIVIDUAL PRACTICES FORTHWITH, AND (ii) TO FILE PROOF OF SUCH NOTICE WITH THE COURT. IF YOU ARE UNAWARE OF THE IDENTITY OF COUNSEL FOR ANY OF THE PARTIES, YOU MUST FORTHWITH SEND A COPY OF THE NOTICE AND PRACTICES TO THAT PARTY PERSONALLY.

DATE AND PLACE OF CONFERENCE: **MAY 8, 2008, AT 9:30 A.M.** AT THE UNITED STATES COURT HOUSE, 500 PEARL STREET, NEW YORK, NEW YORK, IN COURTROOM 11B.

Dated: New York, New York  
April 8, 2008

  
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DENISE COTE  
United States District Judge

Revised March 23, 2005

**INDIVIDUAL PRACTICES IN CIVIL CASES**  
**DENISE COTE, UNITED STATES DISTRICT JUDGE**

**Chambers**

United States District Court  
Southern District of New York  
500 Pearl Street, Room 1040  
New York, New York 10007  
(212) 805-0202

**Courtroom 11B**

500 Pearl Street  
Gloria Rojas  
Courtroom Deputy Clerk  
(212) 805-0097

**Unless otherwise ordered by Judge Cote, these Individual Practices apply to all civil matters assigned to the Honorable Denise Cote except for civil pro se cases.**

**1. Communications With Chambers**

**A. Letters.** Except as otherwise provided below, communications with chambers shall be by letter, with copies simultaneously delivered to all counsel. Letters to chambers in an ECF case should not be electronically filed. Such letters should simply be mailed to chambers as they would be in a non-ECF case. Copies of correspondence between counsel shall not be sent to the Court.

**B. Telephone Calls.** Except as provided in Paragraph 1(D) below, telephone calls to chambers are permitted only in emergency situations requiring immediate attention. In such situations only, call chambers at (212) 805-0202.

**C. Faxes and Hand Deliveries.** Faxes to chambers are not permitted. Hand delivered mail should be left with the Court Security Officer at the Worth Street entrance of the Courthouse; it may not be brought to Chambers.

**D. Docketing, Scheduling, and Calendar Matters.** For docketing, scheduling and calendar matters, call Courtroom Deputy Gloria Rojas at (212) 805-0097.

**E. Requests for Adjournments or Extensions of Time.** All requests for adjournments or extensions of time must state (1) the original date, (2) the number of previous requests for adjournment or extension, (3) whether these previous requests were granted or denied, and (4) whether the adversary consents, and, if not, the reasons given by the adversary for refusing to consent. If the requested adjournment or extension affects any other scheduled dates, a proposed Revised Scheduling Order (reflecting only business days) must be attached. If the request is for an adjournment of a court appearance, absent an emergency it shall be made at least 48 hours prior to the scheduled appearance.

## 2. Motions

**A. Pre-Motion Conferences in Civil Cases.** For discovery disputes, follow local Civil Rule 37.2. If a discovery dispute is raised with the Court by letter, the letter shall not exceed two pages. For motions other than discovery motions, pre-motion conferences are not required.

**B. Memoranda of Law.** Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 25 pages, and reply memoranda are limited to 10 pages. Memoranda of 10 pages or more shall contain a table of contents.

**C. Filing of Motion Papers.** Motion papers shall be filed promptly after service.

**D. Oral Argument on Motions.** Parties may request oral argument by letter at the time their moving or opposing or reply papers are filed. The Court will determine whether argument will be heard and, if so, will advise counsel of the argument date.

**E. Courtesy Copies.** Two courtesy copies of all motion papers, marked as such, should be submitted for chambers **by the movant at the time the Reply is served.**

**F. Preliminary Injunction Motions.** The Court generally follows the procedure for the conduct of non-jury trials described below.

**G. Failure of the Court to Schedule Argument or Decide a Motion.** If a motion is not decided within 60 days of the time it is fully submitted or of argument, counsel for the movant shall send a letter to call this fact to the Court's attention.

## 3. Pretrial Procedures

**A. Joint Pretrial Orders.** Unless otherwise ordered by the Court, within 30 days from the date for the completion of discovery, the parties shall submit to the Court for its approval a joint pretrial order, which shall include the following:

- i. The full caption of the action.
- ii. The names, addresses (including firm names), and telephone and fax numbers of trial counsel.
- iii. A brief statement by plaintiff as to the basis of subject matter jurisdiction, and a brief statement by each other party as to the presence or absence of subject matter jurisdiction. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount.
- iv. A brief summary by each party of the claims and defenses that party has asserted which remain to be tried, without recital of evidentiary matter but including citations to all statutes relied on. Such summaries shall identify all claims and defenses previously asserted which are not to be tried.

v. A statement by each party as to whether the case is to be tried with or without a jury, and the number of trial days needed.

vi. A statement as to whether or not all parties have consented to trial of the case by a magistrate judge (without identifying which parties have or have not so consented).

vii. Any stipulations or agreed statements of fact or law to which all parties have agreed.

viii. A list of all witnesses, with a brief summary of the substance of each witness's testimony and an indication whether such witnesses will testify in person or by deposition.

ix. A designation by each party of deposition testimony to be offered in its case in chief, with any cross-designations and objections by any other party.

x. A list by each party of exhibits to be offered in its case in chief, with one star indicating exhibits to which no party objects on grounds of authenticity, and two stars indicating exhibits to which no party objects on any ground.

**B. Filings Prior to Trial.** Each party shall file with the joint pretrial order:

i. In jury cases, requests to charge and proposed voir dire questions;

ii. In all cases, motions addressing any evidentiary or other issues which should be resolved in limine;

iii. In any case where such party believes it would be useful, a pretrial memorandum; and

iv. In non-jury cases, Proposed Findings of Fact and Conclusions of Law. The Proposed Findings of Fact should be detailed; there may be no opportunity for post-trial submissions.

**C. Additional submissions in Non-Jury Cases.** At the time the joint pretrial order is filed, each party shall serve, but not file, the following:

i. Affidavits constituting the direct testimony of each trial witness, except for testimony of an adverse party, a person whose attendance must be compelled by subpoena, or a person for whom a party has requested and the Court has agreed to hear direct testimony during the trial. Three business days after submission of such affidavits, counsel for each party shall submit a list of all affiants whom he or she intends to cross-examine at the trial. Only those witnesses who will be cross-examined need appear at trial. The original affidavit shall be marked as an exhibit at trial.

ii. All deposition excerpts which will be offered as substantive evidence, as well as a one page synopsis (with page references) of those excerpts for each deposition.



iii. All documentary exhibits.

**D. Filings in opposition.** Any party may file the following documents within one week of the filing of the pretrial order, but in no event less than two days before the scheduled trial date.

- i. Objections to another party's requests to charge or proposed voir dire questions.
- ii. Opposition to any motion in limine.
- iii. Opposition to any legal argument in a pretrial memorandum.

**E. Courtesy Copies.** Two courtesy copies of the joint pretrial order and all documents filed or served with the pretrial order should be submitted to Chambers on the date of filing or service.

#### **4. Conferences**

**A. Principal Trial Counsel.** The attorney who will serve as principal trial counsel must appear at all conferences with the Court.

**B. Initial Case Management Conference.** The Court will generally schedule a Fed.R.Civ.P. 16(c) conference for a Friday within three months of the filing of the Complaint. The Notice of Initial Pretrial Conference will be mailed to plaintiff's counsel, who will be responsible for distributing copies to all parties. One courtesy copy of the pleadings should be delivered to Room 870, 500 Pearl Street prior to the conference date. Counsel are required to register in accordance with the Procedures for Electronic Case Filing before the initial pretrial conference. Counsel can access the web site [www.nysd.uscourts.gov](http://www.nysd.uscourts.gov) and click on CM/ECF Home Page for complete instructions on how to register.

- 5. **Default Judgments.** A party who wishes to obtain a default judgment must proceed by way of an order to show cause and use the procedure set forth in Attachment A.
- 6. **Trial Practice.** Trials will generally be conducted Monday through Thursday from 9:00 a.m. to 5:00 p.m., with lunch from 12:45 p.m. to 2 p.m.
- 7. **Bankruptcy Appeals.** Briefs must be submitted in accordance with Bankr. Rule 8009, 11 U.S.C. Counsel may extend these dates by stipulation submitted to the Court no later than two business days before the brief is due.
- 8. **Notice Regarding Access to Court Filings.** Opinions in ECF cases are sent to the parties via e-mail. With limited exceptions, in non-ECF cases Opinions will be posted on CourtWeb. To access CourtWeb, go to [www.nysd.uscourts.gov](http://www.nysd.uscourts.gov) and click **CourtWeb On-Line Rulings**. Parties will be notified when an Opinion is posted. You can also sign up for the **CourtWeb Watch List**, which will alert you to any new postings regarding a particular case.

**DEFAULT JUDGMENT PROCEDURE**

1. Prepare an Order to Show Cause for default judgment and make the Order returnable before Judge Cote in Courtroom 11B. Leave blank the date and time of the conference. Judge Cote will set the date and time when she signs the Order.
2. Attach the following papers to the Order to Show Cause:
  - a. an attorney's affidavit setting forth:
    - i) why a default judgment is appropriate, including a description of the method and date of service of the original summons and complaint;
    - ii) whether, if the default is applicable to fewer than all of the defendants, the Court may appropriately order a default judgment on the issue of damages prior to resolution of the entire action;
    - iii) the proposed damages and the basis for each element of damages including interest, attorney's fees, and costs; and
    - iv) legal authority for why an inquest would be unnecessary.
  - b. a proposed default judgment.
  - c. copies of all of the pleadings.
  - d. a copy of the affidavit of service of the original summons and complaint.
  - e. if failure to answer is the basis for the default, a Certificate from the Clerk of Court stating that no answer has been filed.
3. Take the Order to Show Cause with the attachments to the Clerk at the Cashier's window on the 1st Floor, 500 Pearl Street, for approval.
4. After the Clerk approves the Order to Show Cause, bring the papers to Chambers 1040, 500 Pearl Street, for the Judge's signature.
5. After the Judge signs the Order, make two conforming copies of the Order and the attachments. Leave one copy with the Judge, and serve one copy on the defendant.
6. Prior to the return date, file the original Order to Show Cause in the Clerk's office, Records Management Office, Room 270, together with an affidavit of service on the defendant of a conformed copy of the Order.
7. Prior to the return date, take the proposed judgment, separately backed, to the Clerk in Room 120, 500 Pearl Street, and get the Clerk's approval. The proposed judgment, including all damage and interest calculations, must be approved by the Clerk prior to the conference and then brought to the conference for the Judge's signature.



CLERK OF COURT

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
500 PEARL STREET, NEW YORK, NY 10007  
300 QUARROPAS STREET, WHITE PLAINS, NY 10601

June 7, 2004

## 3rd Amended Instructions for Filing an Electronic Case or Appeal

**Important - your new case is an electronically filed case (ECF case) and you will be required to file documents electronically instead of on paper** (with certain exceptions listed below). If you don't have your ECF password yet, you should register now (no fee required) on the CM/ECF page of the Court's website at [www.nysd.uscourts.gov](http://www.nysd.uscourts.gov). Please follow the instructions below.

### ECF Judges:

Baer ***	Castel **	Griesa **	Knapp ***	McMahon *	Preska *	Stein *
Batts *	Cedarbaum***	Haight **	Koeltl *	Motley ***	Rakoff **	Swain **
Berman **	Chin **	Hellerstein **	Kram ***	Mukasey *	Robinson *	Sweet *
Briant *	Conner *	Holwell **	Leisure **	Owen ***	Sand ***	Wood **
Buchwald **	Cote **	Jones **	Lynch **	Patterson ***	Scheidlin **	Magistrate-
Carter ***	Daniels **	Kaplan *	Marrero **	Pauley **	Sprizzo ***	Judges *
Casey **	Duffy ***	Keenan **	McKenna ***	Pollack **	Stanton ***	

\* **ECF Wave 1 Judge**, assigning new cases filed on or after December 2, 2003 to the ECF system.

\*\* **ECF Wave 2 Judge**, assigning new cases filed on or after March 1, 2004 to the ECF system.

\*\*\* **ECF Wave 3 Judge**, assigning new cases filed on or after June 7, 2004 to the ECF system.

**Important note on non-ECF cases:** Older cases filed prior to the above dates, as well as Pro Se cases, Habeas Corpus cases, Social Security cases, and Multi-District Litigation will not be electronically filed and should be filed on paper. Do not file documents electronically in cases that are not assigned to the ECF system.

## Instructions

- (1) Electronic cases are opened and service of the initiating documents (complaint, notice of removal, etc.) is accomplished in the traditional manner, on paper.
- (2) **Important - In addition to serving the initiating documents in the traditional manner, on paper, you are also required to deliver paper copies of the following documents to all other parties (copies available at the courthouse, & on our website):**
  - (a) The assigned Judge's Individual Rules
  - (b) USDC/SDNY Instructions for Filing an Electronic Case or Appeal (this document)
  - (c) USDC/SDNY Procedures for Electronic Case Filing
  - (d) USDC/SDNY Guidelines for Electronic Case Filing.
- (3) Within 24 hours of the assignment of a case number, you are required to email to the Clerk of Court the initiating documents in Adobe Acrobat pdf format only. Failure to do so within 24 hours will delay adding your case to the computerized ECF docket. Include a F.R.C.P. Rule 7.1 Statement (if applicable) and any exhibits. The case number, the Judge's initials, and "ECF CASE" must appear in the document's case caption. Each document must be in a separate pdf file no larger than 2.5 megabytes (separate large computer files into smaller parts if necessary, and label accordingly). When sending email, the subject line of the email & the file name of the pdf should list only the case number followed by a document description (ex. "Re: 01cv1234-complaint"). Send the email (do not file on the ECF system) to:

(a) For new civil cases assigned to a Manhattan Judge, email a pdf copy of the documents to

[case\\_openings@nysd.uscourts.gov](mailto:case_openings@nysd.uscourts.gov)

(b) For new civil cases assigned to a White Plains Judge, email a pdf copy of the documents to

[wpclerk@nysd.uscourts.gov](mailto:wpclerk@nysd.uscourts.gov)

- (4) File the Affidavit of Service for the initiating document (complaint, notice of removal, etc.) in the following manner:
- (a) electronically file the Affidavit of Service for the initiating document on the ECF system (do not send by email),
  - (b) file the original Affidavit of Service with summons attached in the traditional manner, on paper with the Clerk.
- (5) All subsequent documents, including the Defendant's Answer, must be filed electronically on the ECF system at **ecf.nysd.uscourts.gov**. Electronic filing involves using your ECF password to docket the item directly into the ECF system. Electronic filing is not the same as email to the Clerk. Read the Judge's Individual Rules to determine if courtesy copies (on paper) are required.
- (6) Appeals will be assigned to the ECF system only if the original case was also electronically filed. File the appeal in the traditional manner, on paper. Then within 24 hours of filing the paper copy of your Appeal at the courthouse, you are required to email to the Clerk of Court an electronic copy of the Appeal in pdf format. Include any exhibits. Each document must be in a separate pdf file no larger than 2.5 megabytes. The District Court case number, the Judge's initials, and "ECF CASE" must appear in the document's case caption.

When sending email, the subject line of the email should always list the case number followed by a document description (ex. "Re: 01cv1234-appeal"). Send the email (do not file on the ECF system) to:

- (a) For appeals from an ECF case assigned to a Manhattan Judge, email a pdf copy of the appeal to

**appeals@nysd.uscourts.gov**

- (b) For appeals from an ECF case assigned to a White Plains Judge, email a pdf copy of the appeal to

**wpclerk@nysd.uscourts.gov**

- (7) Follow all the rules for Electronic Case Filing (available at [www.nysd.uscourts.gov](http://www.nysd.uscourts.gov)):

- (a) SDNY Procedures for Electronic Case Filing
- (b) SDNY Guidelines for Electronic Case Filing
- (c) Individual Rules of the Assigned Judge
- (d) Local Rules of this Court, and
- (e) Federal Rules of Civil Procedure

✓ **Learn More About Electronic Case Filing at [www.nysd.uscourts.gov](http://www.nysd.uscourts.gov)**

- ✓ Click on the "[CM-ECF](#)" page for the official ECF filing rules, training information, computer requirements, and more.
- ✓ Attorneys should use the "[Attorney Registration](#)" page to register on-line for a SDNY ECF password (no fee). Your ECF password will be sent to you by email. You must have an ECF password from SDNY District Court to file documents electronically.
- ✓ Sign up now for a SDNY PACER account if you don't already have one. Call (800) 676-6856, or go to <http://pacer.psc.uscourts.gov>
- ✓ Electronically file documents in ECF cases over the Internet at **ecf.nysd.uscourts.gov**
- ✓ Don't have a computer or scanner? Bring your ECF password and the paper documents to the courthouse, and you can use our public computers to electronically file your documents. Call the ECF Help Desk for more information.
- ✓ The **ECF Help Desk** is available to answer your ECF questions from 8:30 AM to 7:00 PM at (212) 805-0800, and from 8:30 AM to 5:00 PM at (914) 390-4204, and by email at **help\_desk@nysd.uscourts.gov**

**[WWW.NYS.USCOURTS.GOV](http://WWW.NYS.USCOURTS.GOV)**

## Guidelines for Electronic Case Filing

### Frequently Asked Questions about Electronic Case Filing

Click on a frequently asked question to find an answer.

[Show All](#) [Hide All](#)

What is the web address for the SDNY ECF system?

The new ECF system will be on the Internet at **<https://ecf.nysd.uscourts.gov>**

Should I use Netscape Navigator or Internet Explorer to use ECF?

Only Netscape Navigator 4.6, 4.7, or Internet Explorer 5.5 have been certified for use with the ECF program. Other browsers have not been certified, and while they may work part of the time, they may also cause errors in the middle of filing.

Is there a limit to the size of a document that can be filed on ECF?

Yes, 2.5 megabytes (approximately 50 pages). If your file is too large, the system will reject it. The solution is to separate an oversized file into 2 or more parts and docket it in a single event. Simply label each file 1, 2, 3, etc. In all cases assigned to the ECF system, no single document totaling more than 15 megabytes (even if separated into individual computer files) shall be electronically filed without prior permission of the Court.

Can I file documents that originate on paper and are then scanned to create a pdf file?

Yes, but.....the ECF system will not accept any single document that is larger than 2.5 megabytes, or approximately 50 pages. Wherever possible, you should create pdf files directly from a word processing program. When you create a pdf file from a scanned paper document, the file size is significantly larger. This may prevent you from filing it as a single document on the ECF system and will also take up unnecessary computer memory on your own computer system. Besides, it's easier to create a pdf directly from a word processor.

Who can file documents on ECF?

Only an attorney admitted to practice in SDNY, and registered to use the ECF system, or an "authorized agent" of the filing user, is permitted to file (ECF Procedures, 8b). A filing will be deemed to be the sole responsibility of the filing user whose log-in and password were used to file the document. Be careful whom you allow to use your ECF log-in and password. Attorneys can register on-line to use ECF at [http://www1.nysd.uscourts.gov/ecf\\_registration.php](http://www1.nysd.uscourts.gov/ecf_registration.php)

Can an attorney admitted Pro Hac Vice file documents electronically?

Yes. Immediately after a motion to be admitted pro hac vice is granted, the attorney is required to register to be an ECF Filing User at [http://www1.nysd.uscourts.gov/ecf\\_registration.php](http://www1.nysd.uscourts.gov/ecf_registration.php)

Will I need a password to use ECF?

Yes, 2 passwords - one for the ECF system and one for PACER. To obtain an ECF password you must first register to be an ECF Filing User at [http://www1.nysd.uscourts.gov/ecf\\_registration.php](http://www1.nysd.uscourts.gov/ecf_registration.php)

To obtain a PACER password go to <http://ecf.nysd.uscourts.gov> If you already use dial up PACER service, then you don't need to change anything - your log-in and password will remain the same.

When a document is electronically filed, all ECF registered attorneys of record in that case will receive an email titled NOTICE OF ELECTRONIC FILING and a hypertext link to the document. That is your "one free look" at the document. If you need a second look or want to view other cases where you are not the attorney of record, you will be required to enter your PACER log-in and password.

Can I view both civil and criminal dockets over the Internet?

Civil dockets are available remotely over the Internet to anyone with a PACER account. Criminal dockets are available remotely over the Internet only to the attorney of record. As always, all civil and criminal dockets may be viewed on public access computers at the courthouse.

How can I sign up other attorneys in my firm to receive electronic notices in my case?

By adding them as an additional attorney of record. Every attorney of record will receive email notification of filings in his or her case. The ECF system will allow up to two attorneys of record to be entered in each case. Of course, each attorney must be a registered ECF filing user.

Must the caption of the document indicate it has been electronically filed?

Yes. (SDNY ECF Procedures, 8a).

How will I know if I have successfully filed a document electronically?

The filer will immediately receive a Notice of Electronic Filing, which should be saved and/or printed; it's your receipt. You will also see a list of who will be served electronically and who will not. It is the responsibility of the filing party to serve paper copies on any party that will not receive electronic notice.

What if I file the wrong document, or file in the wrong case?

In all cases assigned to the ECF system, if a document is electronically filed in error, the filer shall

immediately notify the Clerk of Court in writing, and the Clerk shall seek further guidance from the Court.

How do I sign an electronically filed document?

The filing user's ECF log-in and password serve as his/her electronic signature. (ECF Procedures #8). The filing user should place an S/ in place of the signature. Signatures for all other persons must be scanned in order to capture the actual ink signature.

Will older cases be assigned to the ECF system?

No. Only those cases filed after the ECF system goes live are subject to electronic filing. Cases filed before the ECF system goes live will not be converted to ECF cases. You will be able to view the docket sheets in older cases on-line, but not the documents.

Which cases will be ECF cases?

Civil and criminal cases filed after December 1, 2003, will be subject to electronic filing. Social Security cases, Habeas Corpus cases and Pro Se cases will not be assigned to the ECF system.

Which Judges will entertain ECF cases?

Eventually all the courts Judges and Magistrate-Judges will be able to entertain ECF cases. Groups of judges will be added to the ECF system over a 12 month period. Parties are directed to refer to each judge's individual rules (available on the court's website) to learn whether a particular case will be assigned to the ECF system.

How do I view a document in an ECF case?

Use an approved Internet web browser (see above) and go to **<https://ecf.nysd.uscourts.gov>** Click on Query, enter the case number, find the document, and click on the blue hyperlink next to that entry. An electronic copy of the complete document will then appear on your computer screen. If there is no blue hyperlink, then there is no electronic version of that document.

Does filing electronically affect the filing deadline?

No. Filing electronically does not change your obligation to comply with the Federal Rules and any applicable Local Rules. Filing must be completed before midnight local time in order to be considered timely filed that day (ECF Procedures 3c)(See also Judges Individual Rules).

How do I open an ECF case?

See Instructions for Filing an Electronic Case or Appeal

Must I serve a copy of the assigned Judge's Individual Rules with the complaint?

Yes. Copies of Judges' Individual Rules are available at the Clerk's Office and also on this Court's public website.

Must I file a paper Summons and Affidavit of Service for the Complaint?

Yes. For ECF cases, the Affidavit of Service with the original summons attached must be filed with the court in the traditional manner, on paper (ECF Procedures, 1d).

Must I file a paper Affidavit of Service for other documents in the case?

No. For all other electronically filed documents after the complaint, the Clerk will automatically transmit by email a Notice of Electronic Filing to each attorney of record that has registered to be an ECF Filing user. Transmission of that Notice of Electronic filing shall constitute service (ECF Procedures, 9).

How do I serve my adversary who has not registered to be an ECF Filing User?

Upon completion of filing electronically, the filer will receive a receipt which should be printed and saved. The receipt will include a list of who will be served electronically and who will not. The ECF system does not relieve filers from their obligations under the Federal Rules of Civil and Criminal Procedure to serve paper copies on any party that will not receive electronic notice.

When filing a motion, should the supporting affidavit be attached or filed separately?

Electronically filed motions should be filed in the traditional manner. Supporting affidavits and exhibits that would normally be filed attached to the motion should also be filed attached to an electronic motion. Other affidavits and memoranda of law that would normally be filed separately from the motion should be filed separately from an electronic motion. Exhibits attached to a motion must comply with the Court's Procedures for Electronic Case Filing, section 5. Excerpted material must be clearly marked as such.

How should I submit exhibits not attached to a motion?

The Court's Procedures for Electronic Case Filing, section 5, requires that attachments and exhibits must be submitted in electronic form, unless the Court permits paper filing. Only relevant excerpts of exhibits, labeled as such, should be submitted. Remember, there are limits to the size of a computer file that may be submitted (see page 1). A party may move for permission to serve and file in hard copy documents that cannot reasonably be scanned.



#### How do I file a proposed order, judgment or stipulation?

Proposed orders, judgments and stipulations should not be submitted through the ECF system. Instead they should be sent by email to the Clerk.

Counsel are directed to follow the individual Judge's Rules regarding the submission of courtesy copies to chambers.

Proposed orders should be submitted in word processing format (WordPerfect or Word) rather than as a pdf document. Stipulations should be submitted in pdf format. Stipulations must contain all required signatures (the last person to sign can email it to the clerk). Email the proposed order, judgment or stipulation to:

**For cases assigned to a Manhattan Judge:** orders\_and\_judgments@nysd.uscourts.gov

**For cases assigned to a White Plains Judge:** wpclerk@nysd.uscourts.gov

#### How do I file an Order to Show Cause?

In all cases assigned to the ECF system, Orders to Show Cause seeking a stay shall be submitted in the traditional manner, in person before the Court.

Orders to Show Cause that do not seek a stay, shall be submitted by email (not filed on the ECF system) to the Clerk in word processing format (WordPerfect or Word) rather than as a pdf document.

Email the proposed Order to Show Cause to:

**For cases assigned to a Manhattan Judge:** orders\_and\_judgments@nysd.uscourts.gov

**For cases assigned to a White Plains Judge:** wpclerk@nysd.uscourts.gov

#### How do I file a default judgment?

Default judgments should not be submitted through the ECF system. Instead they should be sent by email to the Clerk, in word processing format (WordPerfect or Word) rather than as a pdf document.

Email the default judgment documents to:

**For cases assigned to a Manhattan Judge:** orders\_and\_judgments@nysd.uscourts.gov

**For cases assigned to a White Plains Judge:** wpclerk@nysd.uscourts.gov

#### How do I submit a letter?

In the traditional manner on paper. Do not submit letters through the ECF system. (See also each Judge's Individual Rules).

#### Will sealed documents be filed electronically?

No. Sealed documents will be filed in the traditional manner, in paper form.

#### How do I file a Notice of Appeal?

To file a Notice of Appeal you must file the Notice on paper at the courthouse, including a copy of the document being appealed, and pay any applicable fee. (See SDNY ECF Procedures, 1d). Then you must email (not electronically file) a pdf copy of all filed documents to the Clerk of Court within 24 hours. All documents must be marked with the District Court case number and assigned Judge's name.

Email a copy of all filed documents in pdf format to:

**For cases assigned to a Manhattan Judge:** [appeals@nysd.uscourts.gov](mailto:appeals@nysd.uscourts.gov)

**For cases assigned to a White Plains Judge:** [wpclerk@nysd.uscourts.gov](mailto:wpclerk@nysd.uscourts.gov)

**Failure to email the pdf copy of the Notice of Appeal to the Clerk within 24 hours may result in a delay in adding the appeal to the Court's electronic docket.**

Which is the "original" document, the paper or the ECF version?

When a document has been filed electronically, the official record is the electronic recording of the document as stored by the Court, and the filing party is bound by the document as filed (ECF Procedures 3b).

Must I keep paper originals of documents I electronically file?

Yes. See the official SDNY PROCEDURES FOR ELECTRONIC FILING, section 7 for details.

Should I continue to submit courtesy copies?

Counsel are directed to follow the individual Judge's Rules regarding the submission of courtesy copies to chambers. If you would submit a courtesy copy of the document in a non-ECF case, you should now submit a courtesy copy of it in an ECF case. (See also each Judge's Individual Rules)

When an attorney leaves a firm, how do we change the attorney's ECF Registration information?

Send written notice to the Attorney Admissions Clerk, 500 Pearl Street, NY, NY 10007.

Will there be an ECF Help Desk?

Yes. An ECF telephone Help Desk will be available from 8:30 AM to 7:00 PM Monday through Friday at (212) 805-0800, and from 8:30 AM to 5:00 PM at (914)390-4204. Or you can email your ECF questions to [help\\_desk@nysd.uscourts.gov](mailto:help_desk@nysd.uscourts.gov)

How can I stay up to date with future ECF news and developments?

By registering to be a Point of Contact (POC) at [http://www1.nysd.uscourts.gov/ecf\\_poc.php](http://www1.nysd.uscourts.gov/ecf_poc.php), you will receive periodic email messages concerning the ECF system. You don't need to be an attorney to be a POC.

How can I learn how to use ECF?

On this Court's website you will find a link to "ECF Training", an on-line introduction to ECF, as well as detailed training materials for beginners and advanced users.

**500 Pearl Street, New York, New York 10007-1312 • 300 Quarropas Street, White Plains, New York 10601-4150**

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X

NICOLE ZE'TONE,	:	Civil Action No.08 Civ. 0495 (DC):
	:	
Plaintiff,	:	<b>AFFIDAVIT OF SERVICE</b>
	:	
-against-	:	
	:	
KRIZIA S.p.A. and FRANCESCO VITALE,	:	
	:	
Defendants.	:	
	:	

-----X

STATE OF NEW YORK        )  
                                  : ss.:  
COUNTY OF NEW YORK     )

**Max Smith**, being duly sworn, deposes and says:

Deponent is not a party to the within action, is over 18 years of age, and resides in Bronx, New York. On April 16, 2008, deponent served a true copy of the NOTICE OF INITIAL PRETRIAL CONFERENCE, the INDIVIDUAL PRACTICES IN CIVIL CASES OF HON. DENISE L. COTE, UNITED STATES DISTRICT JUDGE, the 3<sup>rd</sup> AMENDED INSTRUCTIONS FOR FILING AN ELECTRONIC CASE OR APPEAL OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK and GUIDELINES FOR ELECTRONIC CASE FILING OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK upon the following counsel of record:

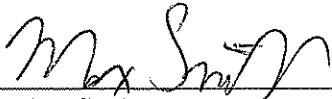
**FEDERAL EXPRESS TRACKING NO. 7910 4629 2149**

Thomas M. Gandolfo, Esq.

Gandolfo Law Firm  
2202 Bellmore Avenue  
Bellmore, NY  
11710-5608  
Attorney for Krizia S.p.A.

by depositing a true copy thereof, enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of Federal Express, for priority overnight delivery, prior to the latest time designated by that service for priority overnight delivery. Deponent has also served true copies of the NOTICE OF INITIAL PRETRIAL CONFERENCE, the INDIVIDUAL PRACTICES IN CIVIL CASES OF HON. DENISE L. COTE, UNITED STATES DISTRICT JUDGE, the 3<sup>rd</sup> AMENDED INSTRUCTIONS FOR FILING AN ELECTRONIC CASE OR APPEAL OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK and GUIDELINES FOR ELECTRONIC CASE FILING OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK upon Thomas M. Gandolfo, Esq., Attorney for Krizia S.p.A. by e-mail to the following e-mail address:

thomas\_g\_11566@yahoo.com.

  
\_\_\_\_\_  
MAX SMITH

Sworn to before me this  
16<sup>th</sup> day of April, 2008

  
\_\_\_\_\_  
NOTARY PUBLIC

MELINDA S. LIPSKY  
Notary Public, State of New York  
No. 01LI4855182  
Qualified in Nassau County  
Certificate filed in New York County  
Commission Expires March 24, 2010